

public accountability are detailed in its report on the Committee's activities in the 109th Congress, S. Rep. No. 110-57, at pp. 24-26 (2007).

The Conference substitute adopts the Senate provision.

TITLE VII—TERRORIST TRAVEL

Section 701. Report on international collaboration to increase border security, enhance global document security, and exchange terrorist information

Section 611 of the House bill requires the Department of Homeland Security (the Department or DHS), in conjunction with the Director of National Intelligence and the heads of other relevant Federal agencies, to submit a report to Congress outlining the actions the U.S. government has taken to collaborate with international partners to increase border security, enhance document security, and exchange information about terrorists.

There is no comparable Senate provision.

The Conference substitute adopts the House provision.

Section 711. Modernization of the Visa Waiver Program

There is no comparable House provision.

Section 501 of the Senate bill enhances the security requirements in the Visa Waiver Program and provides for the program's limited expansion. This section authorizes the development and implementation of an electronic travel authorization system under which each Visa Waiver Program traveler would electronically provide information, in advance of travel, necessary to determine whether the individual is eligible to travel to the United States. The Section also requires the Secretary of Homeland Security (the Secretary) to establish an exit system that records the departure of every alien who entered under the Visa Waiver Program and departed the United States by air. In addition to existing program requirements, all Visa Waiver Program countries are required to enter into agreements with the United States to report information about the theft or loss of passports, accept repatriation of its citizens, and share information about whether a national of that country traveling to the United States represents a threat to U.S. security.

Section 501 permits the Secretary of Homeland Security, in consultation with the Secretary of State, to waive the existing 3 percent nonimmigrant visa refusal rate requirement, up to 10 percent, for admission into the Visa Waiver Program. Alternatively, the Secretary can waive the existing 3 percent nonimmigrant visa refusal rate if a country's nationals do not exceed a rate, set by the Secretary, of overstaying their authorized admission in the United States. This waiver authority is only granted to countries meeting additional security criteria, including cooperating in counterterrorism initiatives, and only when the Secretary determines that security or law enforcement interests of the United States will not be compromised. Before exercising a waiver, the Secretary must also certify to Congress that an air exit system is in place that can verify the departure of not less than 97 percent of foreign nationals who exit by air.

The Conference adopts the Senate provision, with modifications.

The Conference recognizes that the Visa Waiver Program, which Congress established in 1986, has benefitted commerce and tourism between the United States and participating Visa Waiver Program countries. The Conference believes that a modernization of the program is long overdue and that a careful and controlled expansion to countries who have not quite met existing program en-

trance requirements but who have been partners with the U.S. in fighting terrorism is appropriate in order to promote greater international security cooperation. In the wake of the terrorist attacks of September 11, 2001 and subsequent foiled terror plots, the imperative for reform is greater than ever.

The Conference agrees on the need for significant security enhancements to the entire Visa Waiver Program as set forth in the Senate bill and to the implementation of the electronic travel authorization system prior to permitting the Secretary to admit new countries under his new waiver authority. The Conference mandates that the Secretary develop such an electronic travel authorization system to collect biographical and such other information from each prospective Visa Waiver Program traveler necessary to determine whether the alien is eligible to travel under the program and whether a law enforcement or security risk exists in permitting the alien to travel to the United States. The Conference believes the Secretary should check the information collected in the electronic travel authorization system against all appropriate databases, including lost and stolen passport databases such as that maintained by Interpol. The Conference believes that checking travelers from Visa Waiver Program countries against all appropriate watch lists and databases will greatly enhance the overall security of the Visa Waiver Program.

In addition, the Conference agrees to permit the Secretary of Homeland Security, in consultation with the Secretary of State, to waive the existing 3 percent nonimmigrant visa refusal rate requirement, up to 10 percent, and to allow the Secretary to establish an overstay rate in lieu of the 3 percent nonimmigrant visa refusal rate for admission into the Visa Waiver Program. The Conference believes this overstay rate should reflect a reasonable expectation that the country can continue to participate in the VWP under existing statutory criteria.

The Conference further agrees to provide the Secretary this waiver authority upon certification by the Secretary to Congress that there is an air exit system in place to verify the departure of not less than 97 percent of foreign nationals who exit by air, which may or may not be fully biometric. The Conference also agrees that the ultimate goal is to achieve a fully biometric air exit system, as described in subsection (I) of the bill. Therefore, if such a biometric system is not implemented by June 30, 2009, the Secretary's waiver authority that was based upon his certification of 97 percent accuracy of any non-biometric exit system shall be suspended until a biometric exit system is fully operational. Establishment of this biometric system will implement a 9/11 Commission recommendation and will enhance our border security and immigration enforcement by ensuring our ability to track the arrivals and departures of foreign nationals.

Section 721. Strengthening the capabilities of the Human Smuggling and Trafficking Center

Section 601 of the House bill directs the Secretary, acting through the Assistant Secretary of Homeland Security for Immigration and Customs Enforcement (ICE), to: provide administrative support and funding to the Human Smuggling and Trafficking Center (the Center); ensure the Center is staffed with not fewer than 30 full-time equivalent personnel; and seek reimbursement from the Attorney General and the Secretary of State for costs associated with the participation of their respective departments in the operation of the Center. The

section also directs the Office of Intelligence and Analysis (renamed under section 741), in coordination with the Center, to submit to law enforcement and relevant agencies periodic reports regarding terrorist threats related to such smuggling, trafficking, and travel.

Section 502 of the Senate bill is a comparable section but amends Section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1777) to direct the Secretary to nominate a U.S. government official to serve as the Director of the Human Smuggling and Trafficking Center, in accordance with the Center's Memorandum of Understanding entitled "Human Smuggling and Trafficking Center Charter." This section also clarifies the role of the Center as the focal point for interagency efforts to integrate and disseminate intelligence and information related to terrorist travel. The section requires that the Center be staffed with at least 40 full time employees and directs the Secretary to work with various DHS agencies and other Federal Departments to provide detailees with appropriate areas of expertise. The section also authorizes \$20 million to allow the Center to carry out its existing responsibilities, fund the administrative costs and management of the Center, increase staffing levels and reimburse other Federal Departments for personnel.

The Conference substitute adopts the Senate provision, with modifications. The Conference agrees that the Center should be staffed with intelligence analysts or special agents with demonstrated experience related to human smuggling, trafficking in persons, or terrorist travel, in addition to individuals with other expertise including consular affairs, counterterrorism, and criminal law enforcement from throughout the government.

The Conference also agrees that the Secretary and the heads of other relevant agencies should provide incentives for service at the Center, particularly for personnel who serve terms of at least two years. Staff detailed to the Center, except for those subject to the provisions of the Foreign Service Act of 1980, shall be considered for promotion at rates equivalent to or better than similarly situated personnel not so assigned.

The Conference agrees to adopt section 601(f) from the House provision, but delete the requirement that the Office of Intelligence and Analysis submit reports to "Federal" law enforcement agencies and "other relevant agencies," as this would be a function performed by the Center. The Conference clarifies that subsection (d) in no way impedes the authority of the Secretary of State to participate in the selection of the Director of the Center, a role that is described in the Center's memorandum of understanding entitled "Human Smuggling and Trafficking Center Charter," as amended as of October 1, 2006. That Memorandum of Understanding establishes that the Director will be confirmed by the Department, the Department of Justice, and the State Department. Finally, the Conferees agree to fund 40 full-time equivalent staff and to authorize \$20 million for the Center for Fiscal Year 2008.

Section 722. Enhancements to the Terrorist Travel Program

There is no comparable House provision.

The Department never created the terrorist travel program mandated by section 7215 of Public Law 108-458. Section 503 of the Senate bill requires the Secretary to establish the program within 90 days of enactment and to report to Congress within 180 days on the implementation of the program. The section requires that the Assistant Secretary for Policy at the Department, or another official that reports directly to the Secretary,